

REMARKS

The Office Action dated September 15, 2003, has been received and carefully considered. Claims 1-11 are pending in the present application.

In this response, claim 11 has been added and claims 1 and 4-7 have been amended. Entry of claim 11 and the amendments to claims 1 and 4-7 is respectfully requested. Reconsideration of the outstanding rejections in the present application is also respectfully requested based on the following remarks.

I. THE OBVIOUSNESS REJECTION OF CLAIMS 1-5 AND 8-10

On pages 2-5 of the Office Action, claims 1-5 and 8-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Costello (U.S. Patent No. 5,502,851) in view of Tsuga (U.S. Patent No. 6,260,218). This rejection is hereby respectfully traversed.

As stated in MPEP § 2143, to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim

limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Also, as stated in MPEP § 2143.01, obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Further, as stated in MPEP § 2143.01, to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). That is, "[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 165 USPQ 494, 496 (CCPA 1970). Additionally, as stated in MPEP § 2141.02, a prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead

away from the claimed invention. *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). Finally, if an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

The Examiner asserts that Costello teaches the present invention substantially as claimed, except for teaching that the support and handle assembly is attached to the main cross member via hinge means for pivoting about a substantially horizontal axis. The Examiner also asserts that Tsuga teaches a portable support apparatus with a support and handle assembly attached to the main cross member via hinge means for pivoting about a substantially horizontal axis. The Examiner goes on to assert that it would have been obvious to combine the teachings of Costello and Tsuga to arrive at the present invention as claimed.

Claim 1 has been amended to include the feature that the claimed support and handle assembly is configured to receive a modular powered lifting means. Support for this amendment may be found throughout the specification of the present application, as well in U.S. Provisional Patent Application No. 60/222,943, filed August 4, 2000, to which the present application claims priority, and which was incorporated into the

present application upon its filing. Specifically, the specification and Figures 2 and 6 of the present application describe and show the present invention portable support apparatus having a modular powered lifting means attached thereto, as well as the many features of the modular powered lifting means.

It is respectfully submitted that neither Costello nor Tsuga claim, disclose, or even suggest a support and handle assembly that is configured to receive a modular powered lifting means. Indeed, both Costello and Tsuga show integrated devices that certainly are not configured to receive a modular powered lifting means. Thus, it is respectfully submitted that claim 1, as amended, would not have been obvious in view of Costello or Tsuga taken either alone or in combination.

Claim 1 has also been amended to remove the feature that the claimed support and handle assembly has a substantial offset so as to reduce dimensions of the portable support apparatus. However, this feature has been added to claim 5, which also recites that the substantial offset has a first substantially vertical portion attached to the main cross member via hinge means, a substantially horizontal portion connected to the first substantially vertical portion outwardly from the portable support apparatus, and a second substantially vertical portion connected to the substantially horizontal portion, such that a

load on an attached modular powered lifting means may be safely positioned inward of the plurality of caster assemblies and the dimensions of the portable support apparatus may be reduced. Support for this amendment may be found in the specification and Figures 1-3 of the present application, as well in U.S. Provisional Patent Application No. 60/222,943, filed August 4, 2000, to which the present application claims priority, and which was incorporated into the present application upon its filing. Specifically, the specification and Figures 1-3 of the present application describe and show the present invention portable support apparatus having a support and handle assembly with a substantial offset, which reduces dimensions of the portable support apparatus. Also, the above-referenced provisional patent application describes the beneficial features of the support and handle assembly having a substantial offset (i.e., beneficial safety features and the reduction in dimensions of the portable support apparatus).

It is respectfully submitted that neither Costello nor Tsuga claim, disclose, or even suggest a support and handle assembly having a substantial offset for reducing dimensions of a portable support apparatus. Particularly, neither Costello nor Tsuga show a support and handle assembly having an offset with a substantially horizontal portion connected to a first substantially vertical portion outwardly from the portable

support apparatus, which specifically allows for the dimensions of a portable support apparatus to be reduced. In contrast, despite the assertions of the Examiner to the contrary, Costello shows a support structure having a diagonal portion that is connected inwardly toward the apparatus of Costello, thereby teaching away from the present invention as claimed. Thus, it is respectfully submitted that claim 5, as amended, would not have been obvious in view of Costello or Tsuga taken either alone or in combination.

Regarding claim 3, despite the assertions of the Examiner to the contrary, Tsuga does not teach a portion of a support and handle assembly engaging with first and second legs when in a substantially horizontal position. Indeed, the first and second legs of Tsuga do not engage with the support of Tsuga in any manner. Thus, it is respectfully submitted that claim 3 would not have been obvious in view of Costello or Tsuga taken either alone or in combination.

Claims 2, 4, and 8-10 are dependent upon amended independent claim 1. Thus, since independent claim 1 should be allowable as discussed above, dependent claims 2, 4, and 8-10 should also be allowable at least by virtue of their dependency on independent claim 1. Moreover, these claims recite additional features which are not claimed, disclosed, or even

suggested by the cited references taken either alone or in combination.

At this point it should be noted that claim 4, 6 and 7 have been amended to adapt to the amended language of claim 1.

At this point it should be noted that claim 11 has been added with the limitation that the support and handle assembly is directly attached to the main cross member via hinge means for pivoting about a substantially horizontal axis between a substantially vertical position and a substantially horizontal position. The Examiner has indicated that this limitation has not been taught by either Costello or Tsuga.

In view of the foregoing, it is respectfully requested that the obviousness rejection of claims 1-5 and 8-10 be withdrawn.

II. THE OBVIOUSNESS REJECTION OF CLAIMS 6 AND 7

On pages 5 and 6 of the Office Action, claims 6 and 7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Costello (U.S. Patent No. 5,502,851) in view of Tsuga (U.S. Patent No. 6,260,218) and further in view of Ezenwa (U.S. Patent No. 5,193,633). This rejection is hereby respectfully traversed.

The Examiner acknowledges that Costello and Tsuga fail to teach the limitations recited in claims 6 and 7, but goes on to

assert that these limitations would have been obvious in view of Ezenwa.

Claims 6 and 7 are dependent upon amended independent claim 1. Thus, since independent claim 1 should be allowable as discussed above, dependent claims 6 and 7 should also be allowable at least by virtue of their dependency on independent claim 1. Moreover, these claims recite additional features which are not claimed, disclosed, or even suggested by the cited references taken either alone or in combination.

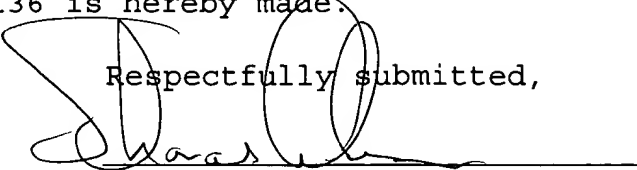
At this point it should be noted that claims 6 and 7 have been amended to adapt to the amended language of claim 1.

In view of the foregoing, it is respectfully requested that the obviousness rejection of claims 6 and 7 be withdrawn.

III. CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number, in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

To the extent necessary, a petition for an extension of
time under 37 CFR § 1.136 is hereby made.


Respectfully submitted,

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APPENDIX A

1 (Currently Amended). A portable support apparatus comprising:

a main cross member having a first end and a second end;

a first leg and a second leg each having a first end and a second end, the first leg pivoting at a first end thereof about a substantially vertical axis at the first end of the main cross member, the second leg pivoting at a first end thereof about a substantially vertical axis at the second end of the main cross member;

cl a plurality of caster assemblies attached to the ~~first and second ends of the~~ first and second legs, each of the plurality of caster assemblies pivoting about a substantially vertical axis; and

a support and handle assembly attached to the main cross member via hinge means for pivoting about a substantially horizontal axis between a substantially vertical position and a substantially horizontal position, the support and handle assembly configured to receive a modular powered lifting means ~~having a substantial offset so as to reduce dimensions of the portable support apparatus.~~

2 (Previously Presented). The portable support apparatus of claim 1, wherein the first and second legs are limited in their

motion by a pair of locking pins and detent holes formed in the first and second legs and the main cross member.

3 (Previously Presented). The portable support apparatus of claim 1, wherein a portion of the support and handle assembly engages with the first and second legs when in the substantially horizontal position for easy stowage and transport.

C1 4 (Currently Amended). The portable support apparatus of claim 1, wherein the support and handle assembly is configured to receive a modular powered lifting means by comprising ~~comprises~~ mounting pins that are suitable for removable attachment of a the modular powered lifting means.

5 (Currently Amended). The portable support apparatus of claim 4, wherein the support and handle assembly comprises a ~~substantial offset having the substantial offset of the support and handle assembly comprises~~ a first substantially vertical portion attached to the main cross member via hinge means, a substantially horizontal portion connected to the first substantially vertical portion outwardly from the portable support apparatus, and a second substantially vertical portion connected to the substantially horizontal portion, such that a load on an attached modular powered lifting means may be safely

positioned inward of the plurality of caster assemblies and the dimensions of the portable support apparatus may be reduced.

6 (Currently Amended). The portable support apparatus of claim 5, further comprising:

a motion-limiting assembly for attachment to the attached modular powered lifting means for preventing the load on the attached modular powered lifting means from moving unsafely outward of the plurality of caster assemblies.

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7 (Currently Amended). The portable support apparatus of claim 6, further comprising:

an electrical interlock switch for preventing the attached modular powered lifting means from operating if the motion-limiting assembly is not properly installed.

8 (Previously Presented). The portable support apparatus of claim 4, wherein the support and handle assembly comprises means for adjusting the vertical location of the mounting pins.

9 (Previously Presented). The portable support apparatus of claim 1, further comprising:

locking means formed on the support and handle assembly and the main cross member for securing the support and handle

assembly in the substantially vertical position.

10 (Previously Presented). The portable support apparatus of claim 9, wherein the locking means comprises a locking pin assembly formed on the main cross member for engaging with a locking blade formed on the support and handle assembly.

11 (New). A portable support apparatus comprising:

a main cross member having a first end and a second end;

c/ a first leg and a second leg each having a first end and a second end, the first leg pivoting at a first end thereof about a substantially vertical axis at the first end of the main cross member, the second leg pivoting at a first end thereof about a substantially vertical axis at the second end of the main cross member;

a plurality of caster assemblies attached to the first and second legs, each of the plurality of caster assemblies pivoting about a substantially vertical axis; and

a support and handle assembly directly attached to the main cross member via hinge means for pivoting about a substantially horizontal axis between a substantially vertical position and a substantially horizontal position.
